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LEGAL POSITIVISM AND FAITH IN LAW¹

Thom Brooks

Durham University

John Gardner, Law as a Leap of Faith, Oxford: Oxford UP, 2012, 314 pp, hb £39.99.

Introduction

Robert Nozick famously says that since John Rawls's work on justice 'political philosophers now must either work within Rawls's theory or explain why not'.² H. L. A. Hart's *The Concept of Law*³ has exercised a similarly dominating presence for legal philosophers. Much work has blossomed as a result and the latest significant contribution is *Law as a Leap of Faith* by John Gardner which seeks to reimagine Hart's influential work on legal positivism in new ways with an exciting collection of fifteen essays, including some previously unpublished work.

Gardner is rather modest about his project's philosophical ambitions. In his preface, he writes that previous attempts to draft a general introduction for this collection were unsatisfactory and ultimately abandoned. This is 'because there is no bigger picture. I don't have a theory of law'.⁴ Instead, he provides us with 'quite a lot of thoughts about law in general and I can only hope that they turn out to be consistent with each other'.⁵ Gardner claims that philosophy is not about 'compiling as many little thoughts as possible into as few big thoughts as possible, but the art of wearing every thought down to its rightful little size and then keeping it in its rightful little place'.⁶ *Law as a Leap of Faith* is a collection of

¹ Forthcoming in *Modern Law Review*.

² Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974) 183.

³ H. L. A. Hart, *The Concept of Law*, 2nd edition (Oxford: Clarendon, 1994).

⁴ John Gardner, *Law as a Leap of Faith* (Oxford: Oxford UP, 2012) v.

⁵ *Ibid.*, v.

⁶ *Ibid.*, v.

comments about the law rather than a complete theory about law where Gardner claims to be engaged in a project of ‘*unbundling*’ where the aim is to clarify our understanding of law through a re-evaluation of Hart’s legacy and how it might be improved further.

Gardner’s modesty is misplaced. He advises his readers ‘you will struggle to find any conspicuously novel ideas about law in the book’.⁷ I disagree: this is not a mere assembly of interesting, but disconnected thoughts spread across idiosyncratic themes. Instead, this is an impressive body of work that gives expression to a powerful vision about the aims and limited ambitions of legal positivism. While Gardner does unbundle muddled arguments and help us reassess a more compelling view about Hart’s legacy, this is more than a critique of where others have gone wrong and it is best considered as essays that challenge some fundamental tenets about the commitments and limits of legal positivism as well as the relation of law and morality more broadly. I will address Gardner’s contributions in these areas focussing on the relevance of a belief in law, morality for positivists and a comment on the Fuller-Hart debate before concluding with some critical remarks about Garner’s understanding of morality and normativity.

The Philosophers’ Belief

The title essay, ‘Law as a Leap of Faith’, has been seen as both ‘the most interesting’ and ‘also the most obscure’ piece in the book.⁸ This is not without good reason. Gardner begins with a brief passage from Plato’s *Euthyphro* where Socrates addresses the problem of ‘whether the holy is beloved of the gods because it is holy, or holy because it is beloved of the gods’.⁹ Gardner translates this into Judeo-Christian terms as a puzzle about an all-powerful and all-knowing God:

⁷ *Ibid.*, vi.

⁸ Kevin Toh, ‘Book Review’, *Notre Dame Philosophical Reviews* (29 April 2013) ([url: http://ndpr.nd.edu/news/39497-law-as-a-leap-of-faith/](http://ndpr.nd.edu/news/39497-law-as-a-leap-of-faith/)).

⁹ Gardner *Law* n 3 above 1.

On the one hand, we are told that whatever this God commands is the right thing to do by virtue of God commanding it. This is an aspect of God's omnipotence. On the other hand, we are reassured that whatever this God commands is commanded because it is the right thing to do. This is an aspect of God's omniscience. But these propositions about God and His commands cannot be true at once. Either this God makes a constitutive difference to what we should do or He does not. So which is it to be?¹⁰

For Gardner, the puzzle is this: either God's commands, as His commands, make activities right that would be wrong otherwise or God's commands merely indicate what is right already. If the former, then there may not be any rational justification for why activities are right independently of God's commands. If the latter, then it is unclear what is added by the fact something is commanded by God because we might discern what is right independently of any such instruction. So either what is right because it is commanded and no more or because it right independently of whether it is commanded.

The puzzle, for Gardner, is it cannot be both at the same time. Either God's commands, as His commands, makes a constitutive difference or it does not. Our way out might be to say, in his words, that 'reasoned argument is useless in the sight of God; only faith will do'.¹¹ The problem with such a solution is that 'faith cannot lend its justifications to the faithless'.¹²

This discussion is meant to provide an insight into longstanding debates between legal positivism and natural law about the relation between law and morality. Gardner argues: 'In the tradition of legal positivism, law is binding because it is posited. In the natural law

¹⁰ Gardner *Law* n 3 above 1.

¹¹ Gardner *Law* n 3 above 3.

¹² Gardner *Law* n 3 above 7.

tradition, on the other hand, law is posited because it is binding. Surely it cannot be both, one must choose between positivism and natural law'.¹³ So how to choose? Do we require a leap of faith to recognise law's commands as commands or not?

Gardner turns to Hans Kelsen's theory of law. Whereas Søren Kierkegaard argues we must make a leap of faith because of the limitations of rationality for theology, Gardner claims that Kelsen – the Kierkegaard of jurisprudence? – argues for a leap of faith about the nature of law. Gardner says:

Therefore, just as a theist may dissolve the Socratic dilemma of theism by holding that God just is goodness personified, so a Kelsenian resolves the structurally identical dilemma of positivism and natural law by holding that law is rightness institutionalized. The question of whether legal rules are posited because right, or right because posited, thus ultimately evaporates.¹⁴

For Kelsen, the ultimate source of validity for any legal system is its basic norm, or *Grundnorm*.¹⁵ This basic norm is a 'fusion, in the juristic consciousness, of authorization and rightness. The *Grundnorm* is, in this sense, the juristic God'.¹⁶ This is because it, like God, can make right, through its demands, what might be wrong otherwise. The importance of the *Grundnorm* is its attempt at reconciling legal positivism and natural law through an act of faith concerning our allegiance to it. There are many different kinds of reasons, including non-moral reasons, for supporting the *Grundnorm* not unlike the variety of reason that may persuade us to believe in God.

¹³ Gardner *Law* n 3 above 7.

¹⁴ Gardner *Law* n 3 above 9.

¹⁵ See Hans Kelsen, *Introduction to the Problems of Legal Theory* (Oxford: Clarendon, 1934) 55-64 and Joseph Raz, 'Kelsen's Theory of the Basic Norm' in *The Authority of Law: Essays on Law and Morality* (Oxford: Clarendon: 1979) 122-45..

¹⁶ Gardner *Law* n 3 above 10.

These arguments about the similarities between theistic and ‘legalistic belief’ are not meant to show they lack important differences. But there is an interesting, and perhaps arresting, thought arising from this somewhat strained analogy that Gardner attributes to Ronald Dworkin: ‘we cannot hypothesize the presuppositions of lawyers without endorsing them. So not only lawyers but also legal theorists can only talk about law while being committed to it’.¹⁷ Gardner disagrees and he denies that lawyers need be ‘true believers’.¹⁸ But why? Specifically, why do we not require a leap of faith in law?

This title piece is fascinating and somewhat frustrating because we must look elsewhere to piece together a more complete picture about Gardner’s views concerning law and faith. In a later piece, Gardner explores the nature of law’s claims. ‘The law’ does not make claims on us *per se*. Instead, only law-applying officials make claims for law: ‘the claims of law are identical to certain claims of its officials’.¹⁹ Legal claims, such as a legal obligation or right, are claims *about* what law claims: they are second-order claims.²⁰ One implication is that errors about law’s claims are not errors of law, but rather errors attributable to the law-applying officials who express those claims.²¹ The sphere of legal claims is not a realm of beliefs, but rather a world of everyday practices.

The legal claims made by law-applying officials are also moral claims and we will consider how Gardner understands the relation of law with morality in the following sections below. Nonetheless, the moral claims often implicit in legal claims need not require any belief from officials. This is because they do not, or at least need not, speak for themselves. Gardner says: ‘Librarians advocate literacy but they may be TV-loving philistines. Recycling officers agitate to reduce waste but they may be gas-guzzling slobs. Judges make moral claims for law but they may be anarchist subversives who are trying to bring law down from

¹⁷ See Gardner *Law* n 3 above 18 and Ronald Dworkin, *Law’s Empire* (Oxford: Hart, 1986) 11-15.

¹⁸ Gardner *Law* n 3 above 18.

¹⁹ Gardner *Law* n 3 above 131.

²⁰ Gardner *Law* n 3 above 133.

²¹ Gardner *Law* n 3 above 133.

the inside'.²² Our faith in law, if we have any, need not be a faith in its morality even though law's claims have a moral character.²³ 'Morality has no officials and cannot make claims', but law-applying officials making legal claims create moral claims concurrently.²⁴

There 'can be immoral laws' as valid law may lack moral merit.²⁵ But the moral merits of law's claims are expressed by the claims of officials and may not reflect their individual view about moral claims more generally.²⁶ So the legal claims are moral claims, but do not represent any comprehensively 'thick' conception about morality and these claims do not require moral merit to be legally valid. More importantly the law can create moral obligations that are legally recognized 'whether or not it took the morally correct path in doing so'.²⁷ Law and morality are linked as part of what Gardner calls 'the inescapable morality thesis'.²⁸ Interestingly, the link law and morality share does not require we assess law's validity in terms of its merits without our discounting the central place of morality in our engagement with legal claims.

Let us bring back Gardner's earlier discussion of theistic commands. In his essay 'Of the Difference between a Genius and an Apostle', Kierkegaard argues that a parent or Christ possesses authority not because either can provide a reasonable justification for their commands we might accept, but rather because of their authority as a parent or Christ. Kierkegaard says: 'To be prepared to obey a government if it can be clever is really to make a fool of it. To honour one's father because he is intelligent is impiety'.²⁹ Their authority derives from our belief and a leap of faith: reason can only get us so far. But this is not to argue that there are no reasons to justify our accepting the authority of their commands. Of

²² Gardner *Law* n 3 above 138.

²³ Gardner *Law* n 3 above 138-39.

²⁴ Gardner *Law* n 3 above 144.

²⁵ Gardner *Law* n 3 above 144.

²⁶ Gardner *Law* n 3 above 144.

²⁷ Gardner *Law* n 3 above 147.

²⁸ Gardner *Law* n 3 above 150.

²⁹ Søren Kierkegaard, 'Of the Difference between a Genius and an Apostle' in *The Present Age* (New York: Torchbook, 1962) 100

course, Kierkegaard is providing arguments aimed at convincing us to make a leap of faith after all. The validity of their authority is distinctly separate from a consideration of its merits—and not unlike a legal positivist understanding of law.

Now let us return to where this section began and reconsider the possible obscurity of this first, title essay. What is its relevance to the other essays? Gardner's project is to shake up our widely held beliefs about the law and especially legal positivism to convert us to a more promising and clear view of law. Law requires a leap of faith, but not without reasons which will require our revising commonplace, almost dogmatic, beliefs about the nature of law we would recognise as problematic if only we could see the light. *Law as a Leap of Faith* is much more about fundamental challenges to our beliefs about the law than providing a new religion.

Positivist Morality

Perhaps the best known previously published essay in this collection is 'Legal Positivism: 5 ½ Myths'.³⁰ One particular myth that receives much attention from Gardner concerns the relation of law and morality for legal positivism. Legal positivism is a broad church encompassing a diversity of perspectives. They are thought to adhere to a common core belief about the nature of law summarised by Gardner as LP*:

(LP*) In any legal system, whether a given norm is legally value, and hence whether it forms part of the law of that system, depends on its sources, not its merits (where its merits, in the relevant sense, include the merits of its sources).³¹

³⁰ See John Gardner, 'Legal Positivism: 5 ½ Myths', (2001) 46 *American Journal of Jurisprudence* 199.

³¹ Gardner *Law* n 3 above 21.

LP* does not deny that the fact Rex is a noble king may speak to why his subjects understand his word as law, ‘but it is *his word* that they regard as law’.³² Law is valid dependent on its sources alone.

One of the myths Gardner attempts to overcome is that LP* is a proposition about what might make norms valid as *legal norms* (and thus part of the law). The value or merit of legal norms is a separate matter from their importance for law. But one implication is that we can accept a legal norm as a *legal* norm without denying the relevance of its merits in the evaluation of law. Gardner emphasizes that LP* is ‘normatively inert’ and value-neutral rather than value-hostile.³³ Legal positivists endorse LP*, but it does not commit them to accepting the so-called ‘separability thesis’.³⁴

The view that legal positivists accept this thesis—the claim that ‘there is no necessary connection between law and morality’—is perhaps the biggest myth of them all with one popular textbook in jurisprudence claiming this thesis is, in fact, ‘the quintessence of legal positivism’.³⁵ Gardner claims the thesis is ‘absurd and no legal philosopher of note has ever endorsed it as it stands’.³⁶

That we have a *legal* obligation is a question of validity and not its merits. But it is an intrinsically moral question as well because ‘moral issues’ are raised by law ‘even if the law is not advertised or enforced’ because its bare existence can and often does influence how we act and relate to others.³⁷ Gardner says: ‘Every legal issue, however superficially technical, is a moral issue, for its resolution inevitably has important consequences for someone’.³⁸ The difference between legal systems and games is that while each has rules only the rules in

³² Gardner *Law* n 3 above 21.

³³ Gardner *Law* n 3 above 36.

³⁴ See Matthew H. Kramer, *In Defense of Legal Positivism: Law Without Trimmings* (Oxford: Oxford UP, 1999).

³⁵ Howard Davies and David Holdcroft, *Jurisprudence: Texts and Commentary* (London 1991) 3 cited in Gardner *Law* n 3 above 48 n 45.

³⁶ Gardner *Law* n 3 above 48. See 144.

³⁷ Gardner *Law* n 3 above 135.

³⁸ Gardner *Law* n 3 above 135-36.

legal systems can be moral claims with potentially important consequences.³⁹ In a later essay, he argues ‘To change the law is inevitably to change the position of some people in morally important ways . . . Every legal issue, however superficially technical, is a moral issue, for its resolution inevitably has morally important consequences for someone’.⁴⁰ A legal norm is like a ‘putative (or purported or supposed) moral norm’: a *legally* valid proposal for addressing *moral* problems.⁴¹ Implicit is the idea that legal obligations possess a moral character which we will return to in the conclusion below.

Nevertheless, it is easy to locate the historical genealogy behind the modern origins of this myth. Famously, John Austin argued ‘the existence of law is one thing; its merit or demerit is another’.⁴² Gardner claims that Hart incorrectly takes this ‘ringing endorsement’ by Austin of LP* as an endorsement of a very different thesis about the separability of law and morality when determining legal validity.⁴³ For Gardner, Hart should not, and need not, have made this mistake. Of course, if Gardner is correct, it appears that Hart must bear some of the blame for perpetuating this particular myth about legal positivism. Hart is critical of legal theories that offer a ‘close assimilation of law to morality’ because they ‘seem, in the end, often to confuse one kind of obligatory conduct with another’ and they fail to provide sufficient room for differences ‘between legal and moral rules and for divergences in their requirements’.⁴⁴ Furthermore, Hart defines legal positivism as ‘the simple contention that it is in no sense a necessary truth that laws reproduce or satisfy demands of morality, though in fact they have often done so’.⁴⁵ Hart then gives us passages that suggest some support for the

³⁹ Gardner *Law* n 3 above 136. Gardner accepts Raz’s view that any norms arising in games relate to us in ‘a detached way’ unlike norms arising in legal systems. See 156-57 and Raz, ‘Legal Validity’ *The Authority of Law* n 14 above 153-57.

⁴⁰ Gardner *Law* n 3 above 161.

⁴¹ Gardner *Law* n 3 above 162.

⁴² Cited in Gardner *Law* n 3 above 48.

⁴³ Gardner *Law* n 3 above 48. See H. L. A. Hart, ‘Positivism and the Inseparability of Law and Morals’, (1958) 71 *Harvard Law Review* 593.

⁴⁴ Hart, *The Concept of Law* n 2 above 8.

⁴⁵ Hart, *The Concept of Law* n 2 above 186.

separability thesis. While this support may be illusory, like most myths this one has at least some basis in facts.

Nonetheless, Gardner's claim is that Hart need not have understood legal positivism as requiring a belief about a necessary separation of law and morality. Instead, Hart is only committed to LP* which is a claim about legal validity that denies laws are valid because of their moral merits. Gardner notes that 'they do not deny the converse proposition that laws might be morally meritorious because of their validity'.⁴⁶ So while Hart's claim might appear to defend a particular view about the nature of law, it should only be understood as a claim about legal validity if we view it in its best light.⁴⁷

This reading of Hart on legal positivism opens up a new possibility for how law and morality might be understood for positivists. One is to reject the mythical assumption that LP* has implications for how judges or governments might act. For Gardner, there are no such implications in fact.⁴⁸ Legal positivism is 'agnostic' about whether any valid legal norms are worth having or following—such considerations require further argument and highlight the conceptual limits of legal positivism's embrace of LP* at its core.⁴⁹ Many languages address law in paired senses of 'legal', such as *lex* and *ius*, *Gesetz* and *Recht* or *loi* and *droit*. It is commonly thought legal positivists are concerned with one, but not the other. For example, our focus should be on what is *Gesetz* (or 'what is posited' in law) rather than what is *Recht* (or 'what is Right' in a more normatively-rich sense). Gardner's reformulation of legal positivism rejects this widely shared belief. This is because to accept LP* does not entail denial that legality might identify a moral value.⁵⁰ Legal positivism can help us answer what is *Gesetz*, but this does not mean questions about how *Gesetz* might be *Recht* cannot be

⁴⁶ Gardner *Law* n 3 above 49.

⁴⁷ See Gardner *Law* n 3 above 50.

⁴⁸ Gardner *Law* n 3 above 51.

⁴⁹ Gardner *Law* n 3 above 51.

⁵⁰ Gardner *Law* n 3 above 52.

asked or nonsensical: they simply require us to look beyond the limited constraints of LP*.⁵¹

Legal positivists need not take sides.

Moreover, Gardner's reformulation seems closer to the spirit, if not letter, of Hart's understanding of legal positivism. Hart did not appear to endorse an understanding of law separately from moral concerns. Moral rules often interact 'side by side with laws which forbid what it enjoins' and where the two come apart 'law loses such battles' 'very often'.⁵² Nor can it be 'seriously disputed that the development of law, at all times and places, has in fact been profoundly influenced both by the conventional morality and ideals of particular social groups'.⁵³ And, of course, Hart endorsed a 'minimum content of Natural Law' whereby its absence would offer citizens 'no reason for obeying voluntarily any rules'.⁵⁴ There is no contradiction in Hart's endorsement of legal positivism and a minimum content of Natural Law, especially if viewed from Gardner's reformulation whereby legal positivism is a partial theory about law focused solely with its legal validity and so requires some further view about law that moves beyond the limited focus of LP*. This is not only a better reading of Hart's position, but a more compelling view about legal positivism and its conceptual limitations. This reading is further consistent with claims about the compatibility of legal positivism, understood as an endorsement of LP*, with other views about law as well, such as legal realism and perhaps others.⁵⁵

Fuller Revisited

Gardner revisits the Fuller-Hart debate. Lon Fuller argues that legal norms hold validity according to their formal merits.⁵⁶ For instance, legal norms that are retroactively, radically

⁵¹ Gardner *Law* n 3 above 53.

⁵² Hart, *The Concept of Law* n 2 above 177.

⁵³ Hart, *The Concept of Law* n 2 above 185.

⁵⁴ Hart, *The Concept of Law* n 2 above 193.

⁵⁵ See Brian Leiter, 'Legal Realism and Legal Positivism Reconsidered', (2001) 111 *Ethics* 278.

⁵⁶ Lon Fuller, 'Positivism and Fidelity to Law: A Reply to Professor Hart', (1958) 71 *Harvard Law Review* 630.

uncertain and devoid of generality fail to satisfy a criteria of legality on their merits. Hart disagrees and he argues that such legal norms are no less valid *qua* legal even here such norms are ‘deficient relative to the ideal of the rule of law’.⁵⁷

Gardner claims Hart should have gone further and argue ‘that legal reasons (including legal norms) are reasons of a distinctively *merit*-independent type’ consistent with LP*.⁵⁸ Gardner views the Fuller-Hart debate as centring on a conflation of a form-content distinction with a source-merit distinction. If we believe form and content as separable, then what matters for law is its source and not its merits. But if we claim form and content are interlinked, then legality may depend on its merits. So the position we take on the first distinction determines our position about the second distinction.

Gardner argues that an understanding about legal validity as source-based need not limit us to source-based criticisms of law. His argument is that it is not incompatible or legal positivists to argue a norm is legally valid and yet ‘should be universally attacked, shunned, ignored, or derided’.⁵⁹ This is only a surprising result if we accept a myth about legal positivism is about. As discussed above, Gardner argues that legal positivism is, in fact, a partial conception about the nature of law.⁶⁰ It is therefore one of several myths plaguing jurisprudence that legal positivism is a complete theory. Instead, it is nothing more than an important ‘thesis about legal validity . . . compatible with any number of further theses about law’s nature’.⁶¹ If Hart had understood legal positivism in terms of LP*, then this would develop and improve his response to Fuller.

One wider consequence is what Gardner describes as ‘a disturbing conclusion’, namely, ‘the rule of law, in its widest interpretation, is not a valid moral ideal’.⁶² This is

⁵⁷ Gardner *Law* n 3 above 31.

⁵⁸ Gardner *Law* n 3 above 31.

⁵⁹ Gardner *Law* n 3 above 32.

⁶⁰ Gardner *Law* n 3 above 33.

⁶¹ Gardner *Law* n 3 above 33.

⁶² Gardner *Law* n 3 above 211.

because ‘immoral lawyering, even immoral lawyering that stands up for the rule of law, is always a live possibility’.⁶³ The potential danger is that lawyers may be encouraged to believe that in defending the rule of law this will be enough ‘to save us from the abyss’.⁶⁴ The problem remains ‘there is always more, and sometimes more important, work to do’.⁶⁵ The fact that legal claims can have moral aims does not entail only morally satisfactory outcomes will result.⁶⁶ Fuller’s formal criteria may help elucidate an important minimum content of law’s merits, but it is not enough on its own to guarantee the law is meritorious.

The Problem of Normativity

Gardner claims: ‘the real problem of normativity, for me, is Hart’s problem of normativity: if a norm is such that its existence doesn’t already entail that we have reason enough to engage with it, in what sense is it a norm?’⁶⁷ Gardner says that we can determine norms through their use: ‘something is a norm if it can be used as a norm’.⁶⁸ Norms can be used in different ways, such as a detached way,⁶⁹ and so some care must be given to their uses.

I note this issue because I believe there is a real problem of normativity at work, but it looks different than this which should be considered separately. Gardner’s understanding of legal positivism as a commitment to LP* reveals legal positivism as a partial theory about law. Gardner also understands legal claims as *moral* claims. But what, or which, *morality* is at work?

My contention is that the idea of legal claims as kinds of moral claims should be reconsidered as kinds of *normative* claims instead. The appeal to morality need not include

⁶³ Gardner *Law* n 3 above 220.

⁶⁴ Gardner *Law* n 3 above 220.

⁶⁵ Gardner *Law* n 3 above 220.

⁶⁶ Gardner *Law* n 3 above 235.

⁶⁷ Gardner *Law* n 3 above 160.

⁶⁸ Gardner *Law* n 3 above 160.

⁶⁹ Gardner *Law* n 3 above 160. See n 36 above.

any link with a distinctive moral view, or ‘comprehensive doctrine’.⁷⁰ Gardner’s argument is that legal claims can have normative force because they often have some normative significance where these claims are not considered in some ‘detached way’ as noted earlier. Legal claims have an ethical dimension that the idea of their being normative claims sufficiently brings out.

The problem with describing normative claims as *moral* claims is that it suggests these claims relate to a single, identifiable moral view. The fact a claim has normative significance may be agnostic or open-textured on which particular moral view it might relate to. In many cases, it may be difficult given ‘the fact of reasonable pluralism’ to identify any particular moral view at play as perhaps there is no distinctive morality appealed to beyond an overlapping consensus linking different and contrasting comprehensive doctrines about morality. So much as legal positivism is a partial view, the ‘moral’ claims of law might be best approached as merely normative. To say otherwise is to recommend that any moral claims of law are linked to some particular, complete view about morality which is not altogether clear or even likely. There is then a problem of normativity relating to Gardner’s discussion of law that could be easily settled by jettisoning the idea of law’s providing us with claims of any distinctive morality and instead argue law has a normative dimension as it surely has and which he so ably makes clear.

Conclusion

Gardner’s *Law as a Leap of Faith* is a work that challenges many of our most widely held beliefs about law with a special focus on legal positivism. This collection of papers is the product of one of our finest legal philosophers today with significant contributions to our understanding of the nature of law and key debates about it by earlier leading figures. While

⁷⁰ See John Rawls, *Political Liberalism* (New York: Columbia UP, 1993).

there is no space to address every discussion of wider interest, it is hoped this Review has made clear its central arguments and their impact for jurisprudence. In my judgement, this is one of the most important works of jurisprudence in many years.